

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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In the Matter of )  
 ) CC Docket No. 95-155  
Toll Free Service Access Codes )

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**NYNEX REPLY COMMENTS**

The NYNEX Telephone Companies ("NYNEX")<sup>1</sup> hereby submit these Reply Comments in the above-captioned matter.

**I. VALID CUSTOMER FOR EACH 888 NUMBER**

NYNEX strongly supports the requirement that there be a confirmed customer request for each toll free number assigned and/or in working status.

NYNEX agrees with other parties (e.g., AT&T) that toll free numbers should be assigned only when a RespOrg has completed negotiations with a customer to be a subscriber of toll free service. RespOrgs should be required to notify the subscriber in writing that a toll free number has been assigned specifically to the subscriber.

The current Industry Guidelines for 800 Number Administration (the "Guidelines") state that "Reservation, Assignment or Activation (Working) of 800 Numbers may only be made by a RespOrg based upon negotiations with a specific prospective Customer." Unfortunately, the Guidelines are voluntary and cannot be enforced by the industry. NYNEX thus agrees with other parties (e.g., Southwestern Bell) that the Commission

<sup>1</sup> The NYNEX Telephone Companies are New York Telephone Company and New England Telephone and Telegraph Company.

should adopt the Guidelines as rules. The Commission would then have the authority to conduct audits of RespOrgs and 800 service providers and to impose sanctions on those who abuse its rules. Audits may be performed by independent agencies and should evaluate RespOrg number utilization and corresponding customer billing over the past 12 months to insure that working numbers are indeed assigned to those customers who have toll free service requirements. In addition, service providers should be required to provide documentation that all new customers have been notified of their newly purchased 800/888 services. If rule violations are found, the Commission could impose sanctions in the form of a monetary penalty and/or restriction/limitation of RespOrg activities for a specified period of time depending on the severity of the abuse.

The Guidelines, however, should be modified to allow RespOrgs to reserve numbers even if there is no specific prospective customer. This will not result in depletion of toll free numbers since numbers may only be reserved for 45 days and there are limits on the amount of numbers that can be reserved. NYNEX believes that the adoption and enforcement of rules requiring that RespOrgs assign and activate new numbers only to those customers who have made a bona fide request for service will provide a fair and equitable means of managing the number resource while at the same time meeting the needs of the market place.

## **II. WRITTEN AFFIRMATION SHOULD NOT BE REQUIRED FOR NEW NUMBER ASSIGNMENT**

NYNEX does not support the proposal made by several parties (e.g., US West) that service providers receive written affirmation from the prospective customer prior to obtaining a new number from the SMS/800 data base. This would be overly cumbersome

and extremely difficult for RespOrgs to administer. If RespOrgs were required to receive written customer confirmation before removing a new number from the SMS/800 data base, it could delay installation of new service for the subscriber. Written affirmation in a world of telemarketing and electronic signatures only delays the process and does not have a place in the customer-focused, technology-driven communications industry. In addition, collecting and maintaining the signed customer order requests would create files of paper for both service providers and RespOrgs. NYNEX believes that this requirement is unnecessary if the number Guidelines are followed.

### **III. CUSTOMER RECORD ADMINISTRATION FEES**

In its comments, NYNEX recommended that the Commission significantly increase the customer record administration fee from its current level of \$.70 per month. Other parties (e.g., USTA) also supported increased customer record administration fees. NYNEX does not support the proposal made by several parties (e.g., Service Merchandising) that 800 service providers charge minimum fees to their subscribers. NYNEX believes that in order to prevent hoarding and promote fair and efficient use of 8XX number assignments, it is more appropriate to charge the entity who takes the action to reserve a number (i.e., the RespOrg), rather than the end user who requests a number for a service application. The funds generated from these fees could support various industry efforts such as the NANC, SMS/800 new feature development, and audits.

U S West and GTE also proposed that SCP owner operators should be able to charge storage fees to RespOrgs for numbers stored in their SCPs. Such charges will have the same effect as increasing SMS/800 customer record administration fees. NYNEX

believes that service providers should have the flexibility to establish rate elements that meet their business needs and also promote efficient use of numbers.

#### **IV. VANITY NUMBERS AND RIGHT OF FIRST REFUSAL**

In its Comments, NYNEX opposed the Commission's proposal to give subscribers of 800 vanity numbers the right of first refusal to receive the equivalent 888 number.

Several parties (e.g., 1-800-FLOWERS<sup>SM</sup>, Inc.) urge the Commission to adopt the proposal because federal trademark law allegedly does not protect their 800 numbers. They argue that granting a right of first refusal will help to avoid litigation based on trademark infringement and unfair competition. They further argue that a right of first refusal is necessary to protect their investment in their 800 numbers.

The Commission's goal in this proceeding should be to promote the fair and efficient use of toll free numbers, and not to adjudicate the legal rights of holders of 800 numbers. As NYNEX demonstrated in its Comments, allowing customers to retain their 800 vanity numbers will accelerate the exhaust of the 888 code. It will also lead to lengthy fights over who is entitled to exercise the right of first refusal. More importantly, the Commission's proposal will cause customer confusion. The public may be given the impression that all service providers can be reached by dialing their 800 number or corresponding 888 number, thus resulting in many misdialed calls.

NYNEX believes that the interests of holders of 800 vanity numbers and the general calling public can best be accommodated through the delayed introduction of identified vanity numbers.<sup>2</sup> This is the current plan recommended by the SMS/800

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<sup>2</sup> This could be accomplished by allowing any 800 subscriber to request that their 800 vanity number not be placed in the spare number pool in the 888 exchange.

Number Administration Committee ("SNAC"). After six months to a year, the public will have become accustomed to having two toll free service access codes. At that time, the withheld vanity numbers could be released.

#### **V. IMPLEMENTATION OF NEW CODES**

Some parties (e.g., AT&T, LCI) have suggested that with AIN technology, LECs should be able to implement new toll free codes within a six month time frame and be capable of implementing any 8XX code by February 1997. Although NYNEX agrees that migrating toll free service to an AIN based platform is the best network architecture, the technology may not be available by February 1997. Based on NYNEX's early experience, six months may not be enough of a lead time to fully implement a new 8XX code on its network since the mere existence of AIN technology is not all that is involved in implementing a new 8XX code. Furthermore, fully preparing the network for acceptance of a new code that may not be used for some time could result in stranded investment and massive over-engineering of the network. Finally, further investment in the existing IN platform, as proposed by some parties, is unwarranted since that would use capital and expense to preserve an obsolete technology that could be more wisely used on upgrading the network to the newest technology available. An orderly plan for migration to an AIN based platform is the most appropriate network solution.

Several parties (e.g., MCI) urge that new toll free codes be activated once 50% of the current toll free numbers have been assigned. While NYNEX agrees with the concept of timely planning, the use of 50% as the trigger for a new code is arbitrary and may preclude use of new technologies that could solve the exhaust problem in a better manner.

As NYNEX indicated in its Comments, once the 888 code has been successfully introduced, the industry, under the Commission's guidance, should develop a plan for the introduction of additional toll free codes. There should be no need for the Commission to mandate an activation time line which may be unnecessarily ambitious and costly.

For the same reason, NYNEX does not support the use of a circuit breaker model that would automatically impose a limit on toll free number reservations once a specific percentage (e.g., 50%) of 888 numbers has been assigned.<sup>3</sup> As long as the administrator of the number reservation system has the authority to take such action as may be required to safeguard the supply of toll free numbers, the supply of toll free numbers can be preserved without resort to cumbersome and elaborate mechanisms such as the circuit breaker model.

## **VI. TARIFF ISSUES**

Many parties (e.g., Bell Atlantic) support the concept of treating 888 service as functionally the same as 800 service. They also agree that no Part 69 waivers are required.

There is also support for allowing exogenous treatment for the incremental costs incurred specifically for the implementation of new toll free numbers, as was the case for 800 service.<sup>4</sup> If the Commission does not conclude its investigation of the LECs' initial 800 database tariffs quickly, then the LECs should be allowed to file separate petitions for exogenous treatment of the 888 costs. To the extent that existing price cap rules are

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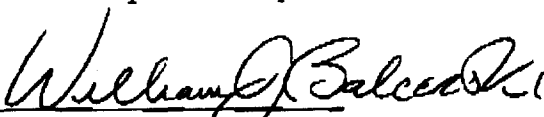
<sup>3</sup> See CWI Comments.

<sup>4</sup> See BellSouth Comments.

revised as part of ongoing proceedings, the Commission should ensure that there remains some mechanism for recovery of these costs under price caps.

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Dated: November 20, 1995

95-155.rep

**CERTIFICATE OF SERVICE**

I certify that copies of the foregoing **NYNEX REPLY COMMENTS** were served on each of the parties listed on the attached Service List, this 20th day of November, 1995, by first class United States mail, postage prepaid.

  
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